

August 2, 2014

Regional Freedom of Information Officer
U.S. EPA, Region 3
1650 Arch Street (3PA00)
Philadelphia, PA 19103

Re: Freedom of Information Act Request involving EPA ID#: MDD069396711

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA) of 1966, 5 U.S.C. § 552, and 40 C.F.R. Part 2, I request copies of, and/or the opportunity to inspect, all records in your custody and control, regardless of format, medium, or physical characteristics, and including electronic records and information, audiotapes, videotapes and photographs, regarding the Harbor Point/Honeywell/Allied Chemical/ 1000 Wills Street site (EPA ID#: MDD069396711)¹ (“Harbor Point”) in Baltimore, Maryland, that relate to the following:

1. The solicitation, scoping of work, negotiation of funding, review, revisions, comments, and approvals of the following two reports:
 - a. Chromium Occurrence And Speciation In Baltimore Harbor Sediments and Porewater, Baltimore, Maryland, USA, *Environmental Toxicology and Chemistry*, Vol. 28, No. 3, pp. 471–480, 2009 (GRAHAM *et. al*); and
 - b. Bioassay Testing Of Baltimore Harbor Sediments Spiked With Cr(VI), Final Report from the Center for Contaminant Transport, Fate, and Remediation, February 12, 2008 (WATLINGTON, GRAHAM, BOUWER, GOODFELLOW and BAUMMER).
2. The qualifications, education, training, and expertise of MDE employees, contractors and consultants who reviewed, commented upon, revised, and approved the reports described in Item 8.

¹ Since 1989 this site has been referred to by a variety of names including but not limited to the following: Allied Signal Incorporated, Allied Signal Inc. Baltimore, Honeywell International Incorporated, Honeywell International, Inc. – Baltimore, and Honeywell Baltimore Inner Harbor. Its location has also been described as Block & Wills Streets Baltimore, Maryland 21231 with latitude of 39.28145 and longitude of -76.59743.

3. Contain or refer to the planning, drafting, review, and approval of Maryland's TMDL Delisting Petition for Chromium in Baltimore Harbor and/or the Northwest Branch as well as associated water quality analyses and studies.
4. The qualifications, education, training, and expertise of MDE employees, contractors and consultants who were involved with the planning, drafting, review, and approval of Maryland's TMDL Delisting Petition for Chromium in Baltimore Harbor and/or the Northwest Branch as well as associated water quality analyses and studies.

I also note that federal courts have held that any record exchanged between a federal government agency and another party cannot be withheld under Exemption 5 of the FOIA. *See* 5 U.S.C. §552(b)(5) (2009); *see also Mead Data Cent. Inc. v. Dep't of the Air Force*, 556 F.2d 242, 253 (D.C. Cir. 1977); *Senate of Puerto Rico v. Dep't of Justice*, 823 F.2d 574, 587 (D.C. Cir. 1987); *Dep't of Interior v. Klamath Water Users Protective Assn.*, 532 U.S. 1, 1 (2001) (Exemption 5 applies to "inter-agency or intra-agency" communication). Further, any comments from or to other agencies on the environmental impact of any activities may not be withheld as interagency documents. *See* 40 C.F.R. §1506.6(f) (2009).

I request that EPA identify and produce all responsive records from any EPA offices (including Headquarters) where such records may be found. Please note that JACOBS STOTSKY PLLC has filed several other FOIA requests concerning Harbor Point. Please call me at the below number to discuss any aspect of my request.

If all or any part of this request is denied, I request that I be provided with a written statement of the grounds for the denial. If you determine that some portions of the requested records are exempt from disclosure, please provide me with the portions that can be disclosed.

I request that responsive records be released as soon as they are available. To the extent that some subset of the requested records is readily available, I would be happy to receive them while EPA searches for other records. Please note that if it is more convenient for the agency, I would be happy to accept copies of the requested records in electronic format (on a thumb drive, for example).

In order to help to determine my status for purposes of determining the applicability of any fees, you should know that I am a law firm. Please advise me as to the cost, if any, for inspecting the records described above. I anticipate that I will want copies of some or all of the records sought and am willing to pay fees for this request up to a maximum of \$100. If you estimate that the fees will exceed this limit, please inform me first and provide a written estimate of assessable fees. If you have adopted a fee schedule for obtaining copies of records and other rules or regulations implementing the Act, please send me a copy.



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I look forward to receiving disclosable records promptly and, in any event, to a decision about all of the requested records within 30 days. Thank you for prompt attention in responding to this request.

Sincerely,

JACOBS STOTSKY PLLC

A handwritten signature in blue ink that reads "Jon D. Jacobs".

By: Jon D. Jacobs
1629 K Street, NW, Ste. 300
Washington, D.C. 20006
(202) 508-3886